

**REMARKS**

The present Amendment is in response to the Official Action mailed December 19, 2006. Claims 1, 23, and 37 have been amended. Claims 10, 25, and 39 have been canceled. Therefore, claims 1-9, 11, 12, 23, 24, 26-38, and 40-52 remain currently pending in the present application. The following sets forth Applicant's comments relating to the amended claims and the outstanding Official Action.

In the Official Action, the Examiner first rejected claims 1 and 23 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Essentially, the Examiner opined that the limitation "said first portion having a surface adapted to be located adjacent a bone surface and a plurality of bone fastener apertures" in each of independent claims 1 and 23 imply that the first portion is adapted to be located adjacent the apertures and does not positively claim the apertures. In the present Amendment, both independent claims 1 and 23 have been amended to positively claim said apertures, as such claims now set forth the elements of the first portion of the adjustable bone resection guide claimed as separate elements with separate roman numeral identifiers. Applicant trusts that these amendments overcome the § 112 rejections set forth by the Examiner, and respectfully request removal of same.

Further in the Official Action, subsequent to deeming Applicant's previously filed arguments as unpersuasive, the Examiner once again rejected claims 1-6, 8-12, 23-31, 33-45 and 47-52 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,608,898 to Volk ("Volk"), and claims 7, 32, and 46 under 35 U.S.C. § 103(a) as being obvious over Volk in view of U.S. Patent No. 6,796,986 to Duffner ("Duffner") and in further view of U.S. Patent No. 4,020,929 to Goldin ("Goldin"). As

these rejections have been presented more than once before, no detailed discussion summarizing the Examiner's positions is set forth herein. Instead, Applicant notes that although he strongly disagrees with the Examiner's assertions, independent claims 1, 23, and 37 have been amended herein to require additional limitations clearly not taught by any prior art cited by the Examiner. Specifically, each of independent claims 1, 23, and 37 have been amended to require that the first portion of the resection guide have a plurality of bone fastener receiving apertures arranged in at least two vertically spaced rows. These apertures are clearly shown and discussed in the present application, as originally filed. This type of vertical arrangement among the different rows of apertures allows for a surgeon or other medical professional, during use of the claimed bone resection guide, to easily reposition said guide along pins inserted into the bone being resected. This additional limitation is clearly not taught in Volk, Duffner or Goldin, because such a configuration would simply not be beneficial to the devices taught therein.

Moreover, each of independent claims 1, 23, and 37 have also been amended to include the further limitation that the second portion of the adjustable bone resection guide claimed include a bone resection guide surface, which is slotted or formed by a slot. Once again, this limitation is clearly disclosed in the drawings and specification originally filed with the present application, and such is not taught by Volk, as the saw guide and miter apparatus taught therein would not be compatible with standard saws or cutting tools typically utilized in carpentry or the like. On the other hand, in the field of orthopedic surgery, there exist several different cutting apparatus suitable for use in connection with an enclosed slot or other slotted surface. Thus, the addition of this limitation to independent claims 1, 23, and 37 further

reiterates the differences between the present invention and that of Volk, and further demonstrates the allowability of the currently pending independent claims.

Applicant has made the above amendments to the currently pending independent claims in order to more clearly claim one embodiment of the present invention that very clearly overcomes the prior art cited by the Examiner. Applicant notes that claims 10, 25, and 39 have been canceled from the currently pending claims because such claims included limitations now included in the independent claims from which they depended. In light of the above amendments and arguments, Applicant respectfully submits that independent claims 1, 23, and 37 overcome the prior art of record. Given that the remaining claims properly depend from one of these allowable independent claims, Applicant also submits that such claims also overcome the prior art of record. A dependent claim is necessarily narrower than an independent claim from which it properly depends. Therefore, Applicant respectfully requests allowance of each and every one of the currently pending claims.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

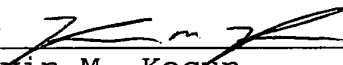
Application No.: 10/757,619

Docket No.: OSTEONICS 3.0-480

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: May 3, 2007

Respectfully submitted,

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